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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/883,768	06/19/2001	Brian W. Carr	P04605US1	2949

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EXAMINER

CROSS, LATOYA I

ART UNIT	PAPER NUMBER
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1743

DATE MAILED: 07/02/2003

6

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/883,768

Applicant(s)

CARR ET AL.

Examiner

LaToya I. Cross

Art Unit

1743

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 19 June 2001.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-14 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-11 and 13 is/are rejected.
- 7) ☐ Claim(s) 12 and 14 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☒ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 2.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

DETAILED ACTION

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

2. Claims 1-11 and 13 are rejected under 35 U.S.C. 102(e) as being anticipated by US patent 6,483,583 to Wright et al.

Wright et al teach a method and apparatus for measuring constituents of substances or products. The method and apparatus use near infrared spectroscopy for grain analysis. As shown in figure 6 of the reference, a chopper cuts and chops grain or forage. The chopped substance falls through into a cyclone and is collected in a weigh box (40) having a pair of doors (76) disposed on the lower portion of the weigh box. The weigh box is equivalent to Applicants' claimed overhead grain compartment. Wright et al also teach the use of a chute (16), which would be equivalent to Applicants' claimed overhead grain compartment. The pair of doors (76) is equivalent to Applicants' claimed discharge port. After the grain is weighed, the doors of the weigh box open and the grain drops onto a conveyor belt (78). The conveyor belt is the surface where analysis of the grain takes place. According to figure 6, the conveyor belt is positioned at an angle toward the blower. Thus, the conveyor belt provides a sloping presentation surface as recited by Applicants in claims 1 and 7. A wheel, wall (82) and vertical

Art Unit: 1743

conveyor control the level of grain the passes by the monochromator (32, 84). The monochromator includes a light source (88) and a light sensor (90), the optics for near infrared spectroscopy. As light is transmitted by the light source, it reflects off the sample and is detected by the light sensor. The reflected light is then analyzed to determine the constituents of the grain. See col. 4, line 59 – col. 5, line 7. At col. 6, lines 23-37, Wright et al teach that the area surrounding the sensor is enclosed to limit the amount of stray light which may affect the performance, as recited in claims 2 and 9. With respect to claim 3, Wright et al teach that a wall (82), equivalent to Applicants' claimed baffle, helps in controlling the level of sample that passes by the monochromator and helps to ensure an even flow of sample pass the monochromator (col. 8, lines 61-63). With respect to claim 4, the reference teaches that successive samples may be analyzed and the process is constant and repeatable (col. 7, lines 29-34). With respect to claims 5 and 11, figures 1 and 6 show the near infrared spectroscopy device being attached to a harvesting combine to allow analysis to take place during harvesting. With respect to claims 6 and 10, Wright et al teach a computer/controller (92) connected to the monochromator for controlling the analysis of the sample. With respect to claim 13, figure 6 of the reference show the monochromator located adjacent to the conveyor belt where the grain flows.

Therefore, for the reasons set forth above, Applicants' claimed invention is deemed to be anticipated, within the meaning of 35 USC 102, in view of the teachings of Wright et al.

Art Unit: 1743

Allowable Subject Matter

3. Claims 12 and 14 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

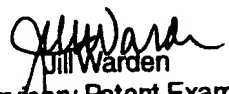
Claim 12 recites that the sloping presentation surface is comprised of a transparent material. The prior art of record fails to teach or suggest a surface for analyzing grain where the surface is made of transparent material. Claim 14 is directed to the optics of the NIR spectroscopy being located within the sloping surface. The prior art of record fails to teach or suggest near infrared spectroscopy being incorporated into the surface across which grain flows.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to LaToya I. Cross whose telephone number is 703-305-7360. The examiner can normally be reached on Monday-Friday 8:30 a.m. - 5:00 p.m..

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jill A. Warden can be reached on 703-308-4037. The fax phone numbers for the organization where this application or proceeding is assigned are 703-872-9310 for regular communications and 703-872-9311 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-0661.
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June 24, 2003


Jill Warden
Supervisory Patent Examiner
Technology Center 1700